

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Joel Greenbaum

Date application filed with the Town Clerk: May 28, 2008

Nature of request: A Special Permit to convert half of an existing non-conforming storage building to a two-family residence, under Section 9.22 of the Zoning Bylaw

Address: 15 Grove Street (Map 11D, Parcel 228, R-G Zoning District)

Legal notice: Published June 25 and July 2, 2008 in the Daily Hampshire Gazette and sent to abutters on July 3, 2008

Board members: Thomas Simpson, Barbara Ford and Albert Woodhull

Submissions: The applicant submitted with the application a Management Plan, a site plan and a set of building plans drawn by Wright Builders, dated 5/23/08

The zoning assistant submitted a memo concerning the application dated July 3, 2008.

For the September 11th continued hearing, the applicant submitted the following:

- A perspective of the front and south side of the proposed two-family, drawn by Wright Builders, dated 6/30/08;
- A colored map of the sound-mitigating partitions for the recording studio in the north half of the building and the triple partitions between the recording studio and the proposed two-family dwelling;
- A site plan showing the new lawn in front of the building and the redesigned parking area, drawn by Amherst Landscape, dated 8/8/08;
- A map of the property and surrounding area with distances to the adjacent buildings;
- A statement concerning the compatibility of two principal uses he had prepared for the hearing.

Site Visit: July 8, 2008

The Board met with Mr. Greenbaum at the site and observed the following:

- A large commercial building on a small, non-conforming lot in the middle of a residential neighborhood;
- An apartment complex adjacent to the south, and single or two-family dwellings on the other three directions;
- A steep driveway onto the property and a large parking area for at least 10 cars;
- A hillside to the north of the building that is essentially the only open space on the lot;
- The south side of the building where the proposed dwelling will have windows and sliding doors, that now is obscured by a row of hemlocks;
- The interior of the building, half of which is a recording studio, and the other half which is proposed for the two dwelling units.

Public Hearing: July 9, 2008

Mr. Greenbaum spoke to the application at the hearing. He read from a document that he had prepared about the proposed mixed use of the commercial building. He gave the following information:

- The building was originally a garage, housing buses and other large vehicles;
- It had long been vacant, and recently a recording studio received a Special Permit to occupy the north half of the building;
- A recording studio can be considered compatible with two residential units for three reasons:
 1. Parking is ample for both uses. Two residential units will need four (4) parking places and the recording studio uses two to three spaces at random times during recording. Parking is ample on the property and there will be no impact of four additional vehicles parked on a regular basis.
 2. Aesthetics of the building will be greatly enhanced with the conversion to two dwelling units. Currently there is an ugly building in a residential neighborhood. The proposed design with new facades, new south-facing windows and skylights (solar advantages) will improve the looks of the building significantly.
 3. Acoustically, both the recording studio will be quiet and non-intrusive. Each will be a box within a box with sound-proofing in-between. The north wall of the dwelling units will actually be several walls that will make one use (dwelling) inaudible to the other (studio). In all, there will be five (5) walls separating the studio from the apartments.
- The walls will be two-hour fire rated as well as insulated for sound;
- The floors of the apartments will be eight (8) inches higher than the concrete with sand and insulation in them;
- There will be high ceilings and skylights;
- There will be siding for the front (west) of the building and the south side of the building facing the apartment complex will be painted;
- The south side will have French doors that open inwardly;
- The proposed apartments will be less detrimental to the neighborhood than the former use as a garage;
- The apartments will be moderately priced, close to the downtown and schools, so it is expected that families will rent them.

Mr. Simpson asked about the row of hemlocks along the south side of the property. He asked about the distance between them and the building where the windows and French doors will be. Mr. Greenbaum said that the hemlocks will be removed on the south side of the building to give more sunlight to the apartment residents. The hemlocks bordering the parking area will remain.

Mr. Simpson noted that there needs to be a better site plan to reflect the proposed changes on the outside as well.

Mr. Woodhull said that he supported the idea of converting a commercial building in a residential area, but that there is no outside space on the property. There should be some space for outdoor recreation if families are desired. Perhaps removing some of the asphalt will provide some grassy space for recreation.

Mr. Greenbaum said that across from the parking lot to the south is a large green area and play space as part of the Knickerbocker apartments owned by the Greenbaums. He added that there are many homes in town that do not have green space.

Ms. Ford noted that the apartment design is nice, but that the plans should include more plantings and

landscaping. Mr. Simpson added that he would like to see the interior of the studio on the plans as well.

The Board and the applicant reviewed again the number of walls separating the studio and proposed apartments, focusing on the sound insulation. The applicant assured the Board that no sound would leak from one side of the building to the other.

Mr. Simpson asked whether there was any way to avoid a 40-foot long hallway. The applicant replied that there had to be two means of egress, so that long of a hallway was necessary.

Mr. Woodhull asked if there was any objection from the recording studio to the proposed two dwelling units. Mr. Greenbaum responded that they are worried about the noise from electronics in the new apartments carrying into the studio.

Mr. Woodhull asked about storage for larger objects such as bicycles or canoes. It would be good to make the place bicycle friendly, he said. The applicant suggested perhaps there could be storage in the long hallway, above shoulder height.

Mr. Woodhull asked if there would be an accessible entrance. The applicant said no, since the floor would be 8 inches higher than the existing grade.

Mr. Simpson reminded the applicant that any new exterior lighting must be downcast.

The Board discussed the compatibility of the parking for the two uses. The applicant said that the studio is open during the day when most of the residents would be away. Then the situation reverses in the evening when the studio is closed and the residents are home. The driveway descends 10 feet into the parking area.

The Chair opened the hearing to comments from the public.

Bob Newcomb of 87 North Whitney Street, next door on the westerly side of the property, said that the recording studio sometimes operates until midnight. On the past Monday, for example, there were six cars in the parking lot. He's never heard music or other noise from the studio, but the comings and goings are noisy. The neighborhood echoes, he said. He's concerned with the number of vehicles, and would like fewer parking spaces on the property in order to limit the number of cars entering and exiting the property.

It was agreed that the studio patrons could use the public parking spaces at the end of Grove Street, just to the east of the studio.

Mr. Newcomb said that he was happy to hear that the proposed units would not become student housing.

Louis Greenbaum, owner of Knickerbocker Apartments, said that he has owned rental properties since the 1970's and is conscientious about noise. He's never had a complaint about how his tenants comport themselves. They have never had public disturbances or calls to the police. There are families in the apartments and they continue to rent to families. They don't want to rent to students.

The Board replied that if there is noise from the recording studio, then it's the responsibility of the landlord. Mr. Simpson added that the ZBA must craft conditions to a permit that are applicable 30-40 years from now and with a different owner.

Mr. Simpson asked the Board members if they found the proposed residences to be compatible with the recording studio. All agreed that the proposed residential use was compatible with the studio and that

residences reduced the non-conformity of the building.

Mr. Simpson reviewed with the Board what would be needed prior to the Board voting on the proposal.

1. Final building plans for the two units if they are different than the original submitted plans;
2. An improved site plan showing reduced asphalt, 8 or 9 parking places with dimensions and landscaping for the remainder of the area in front of the building;
3. A more clear drawing of the interior walls of the building, including the walls of the recording studio;
4. Final elevations of the south side of the building;
5. A map of the surrounding area that shows the placement of the residences in relation to the applicant's building.

Mr. Simpson made a motion to continue the hearing until September 11, 2008 at 7:30 p.m. Ms. Ford seconded the motion, and the vote was unanimous to continue the hearing until September 11th at 7:30 p.m.

Continued Public Hearing: September 11, 2008

The Board reviewed with Mr. Greenbaum the additional plans that had been submitted since the earlier hearing. All of the five requests listed above were addressed. Additional information included:

- The only change in the building plans is the closet/mechanical room. It is now turned sideways so that technicians can access it;
- There are French doors on the south that will provide light. The hemlocks currently along the property boundary will be removed along the building for that reason. Grass will be planted instead.
- The hemlocks on the south side of the parking area will remain, as will the vegetation on the west side of the parking area;
- A 20' x 75' area of blacktop in front of the building will be removed to create an additional green space. Low shrubs against the building and grass will be planted;
- There will be 8 spaces for parking;
- Public parking at the end of Grove Street is available if needed for the recording studio;
- The plans for the walls show that the recording studio is triple insulated with two sound-proof walls and a concrete block wall;
- The walls separating the studio from the apartments have a two-hour fire separation and are sound proofed;
- The floor of the apartments will be elevated 8 inches above the current concrete level.

Mr. Woodhull reminded the applicant that if there was noise from the recording studio in the parking lot, that it was his responsibility to control. The hours of operation for the studio do not include late night sessions.

Mr. Simpson asked the public if they wished to comment on the proposal. No one from the public spoke.

Mr. Woodhull made a motion to close the public hearing. Ms. Ford seconded the motion and the vote was unanimous to close the public hearing.

Public Meeting:

Mr. Simpson asked the other members of the Board if they had any objections to the proposal. There were none.

The Board spent the remainder of the public meeting crafting conditions of the Special Permit if the application were to be approved.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 and 10.381 – The proposal is suitably located in the neighborhood and is compatible with existing uses because there are other multi-family dwellings in the immediate neighborhood and the proposal converts a former commercial building into half residential.

10.382 and 10.385 – The proposal would not constitute a nuisance and reasonably protects the adjoining premises against detrimental or offensive uses on the site because the use will be residential, targeted to families, as are the other properties in the neighborhood.

10.383 and 10.387 – The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians and the proposal provides convenient and safe vehicular and pedestrian movement within the site and in relation to adjacent streets because there will be on-site parking, plus a sidewalk on the south side.

10.386 – The proposal ensures that it is in conformance with the Parking regulations of the town because eight parking places are provided, two for each unit as required by Section 7.00 of the Zoning Bylaw and four more for the recording studio.

10.389 – The proposal provides adequate methods of disposal and/or storage for wastes because the property is connected to Town water/sewer, and the property owners are responsible for maintenance.

10.392 – The proposal provides adequate landscaping, including the screening of adjacent residential uses, because screening will be on two sides of the parking lot, and additional lawn will be provided.

10.393 – The proposal provides protection of adjacent properties by minimizing the intrusion of lighting because exterior lighting will be downcast.

10.395 – The proposal does not create disharmony with respect to the use, scale and architecture of existing buildings in the vicinity because it is reducing the non-conforming of a commercial building.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw because it protects the health, safety, convenience and general welfare of the inhabitants of the Town of Amherst. It also provides two additional housing units close to the center of Town.

Public Meeting – Zoning Board Decision

Mr. Simpson made a motion to APPROVE the permit, with conditions. Ms. Ford seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit to convert an existing non-conforming storage building to a two-family residence under Section 9.22 of the Zoning Bylaw, at 15 Grove Street (Map 11D, Parcel 228, R-G Zoning District, as requested in the application filed by Joel Greenbaum, with conditions.

THOMAS SIMPSON

BARBARA FORD

ALBERT WOODHULL

FILED THIS _____ day of _____, 2008 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2008.
NOTICE OF DECISION mailed this _____ day of _____, 2008
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2008,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit to convert an existing non-conforming storage building to a two-family residence under Section 9.22 of the Zoning Bylaw, at 15 Grove Street (Map 11D, Parcel 228, R-G Zoning District, as requested in the application filed by Joel Greenbaum, subject to the following conditions:

1. The residential units shall be built according to the plans approved by the Board at a public meeting on September 11, 2008.
2. The parking lot and site shall be built according to the site plans approved by the Board at a public meeting on September 11, 2008.
3. The property shall be managed according to the Management Plan approved by the Board at a public meeting on September 11, 2008.
4. Four (4) parking places shall be reserved for the two residential units.
5. Landscaping shall be maintained in perpetuity.
6. All new exterior lighting shall be downcast.
7. Reflective street addresses for both units and the recording studio shall be installed along Grove Street, visible in both directions
8. Evidence that the rental unit has been registered with the Board of Health-under the rental property registration regulations shall be submitted to the Board of Appeals and the Building Commissioner before a Certificate of Occupancy is obtained.
9. This permit expires upon change of ownership.
10. This permit is subject to Section 14 of the Zoning Bylaw, Phased Growth. Development authorization is available as of October, 2008.

THOMAS SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE